

The State Bar of California

REQUEST FOR PROPOSAL



This document is a Request for Proposal ("RFP") for Managing Editor, California Labor & Employment Law Review.

Please submit 3 copies of your proposal no later than 5 p.m. on August 31, 2006 to:

The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Attn: Edward Bernard
Section Education/State Bar
415-538-2242
Edward.Bernard@calbar.ca.gov

I. INTRODUCTION

The State Bar of California ("the State Bar"), created in 1927 by the Legislature and adopted into the California Constitution in 1960, is a public corporation within the judicial branch of state government. As a governmental agency, the State Bar regularly is granted favorable governmental pricing and contract terms.

The State Bar is seeking proposals for a Managing Editor for the California Labor & Employment Law Review for a period of one year, with an option to renew for an additional year. The managing editor may be an attorney and/or law school faculty member and will be responsible for managing six issues: October, December 2006, February, April, June, and August 2007.

Contact with State Bar personnel in connection with this RFP may not be made other than as specified in this RFP. Unauthorized contact of any State Bar personnel may be cause for rejection of a bid.

II. GENERAL INFORMATION

The submission requirements for this RFP are set forth below. A proposal shall constitute an irrevocable offer for 60 business days following the deadline for its submission. Reference to a certain number of days in this RFP shall mean business days unless otherwise specified.

A. Submission Requirements

To be considered responsive, a proposal must contain the following, referenced by number and in the order below:

1. A brief description of past editorial history.
2. Copies of business licenses, professional certifications or other credentials, together with evidence that bidder, if a corporation, is in good standing and qualified to conduct business in California.
3. A description of similar projects completed by the bidder within the past three (3) years.
4. Qualifications, background and experience of the project director and other staff proposed to work on the project.
5. References with contact information from organizations that have used bidder's services for similar projects/installations within the last 12-18 months.
6. A general description of the techniques, approaches and methods to be used in completing the project
7. A description of the chronology for completing the work, including a time line and deadlines for each task.
8. A detailed cost proposal, including any travel costs and other expenses. As the State Bar may award a contract based on the initial offer, a bidder should make its initial offer on the most favorable terms available. The State Bar reserves the right, however, to have discussions with those bidders falling within a competitive range, and to request revised pricing offers from them and to make an award or conduct negotiations thereafter.

Proposals which fail to address each of the submission requirements above may be deemed non-responsive and will not be further considered.

B. Rejection of Proposals

The State Bar reserves the right in its sole discretion to reject any or all proposals in whole or in part, without incurring any cost or liability whatsoever. All proposals will be reviewed for completeness of the submission requirements. If a proposal fails to meet a material requirement of the RFP, or if it is incomplete or

contains irregularities, the proposal may be rejected. A deviation is material to the extent that a proposal is not in substantial accord with RFP requirements.

Immaterial deviations may cause a bid to be rejected. The State Bar may or may not waive an immaterial deviation or defect in a proposal. The State Bar's waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse a bidder from full compliance with the RFP requirements.

Any proposal may be rejected where it is determined to be not really competitive, or where the cost is not reasonable.

Proposals that contain false or misleading statements may be rejected if in the State Bar's opinion the information was intended to mislead the State Bar regarding a requirement of the RFP.

C. Evaluation Process and Highest Scored Bidder

An evaluation team will review in detail all proposals that are received to determine the Highest Scored Bidder ("HSB").

The State Bar reserves the right to determine the suitability of proposals on the basis of a proposal's meeting administrative requirements, technical requirements, the review team's assessment of the quality and performance of the equipment and services proposed, and cost.

During the evaluation process, the State Bar may require a bidder's representative to answer questions with regard to the proposal and/or require certain bidders to make a formal presentation to the evaluation team and/or the State Bar Senior Executive Team. The State Bar may also have discussions with those bidders falling within a competitive range, and request revised pricing offers from such bidders and make an award and/or conduct negotiations thereafter.

The following criteria will be used in reviewing and comparing the proposals and in determining the HSB. The weight to be assigned to each criterion appears following each item.

1. Responsiveness of the proposal to the submission requirements set forth in the RFP (10%).
2. Agreement with the State Bar's contracting requirements (10%).
3. The technical ability, capacity, and flexibility of the bidder to perform the contract in a timely manner and on budget, as verified by, e.g., the quality of any

demonstration, client references, demonstrated success in projects with similar requirements and any other contracts with the State Bar (45%).

4. The total cost of the proposal solution. Costs will be evaluated only if a proposal is determined to be otherwise qualified. Costs should be itemized by type to allow the State Bar to implement the solution over the term of the contract (35%).

If a large number of proposals are received, the State Bar reserves the right to review the proposals using a tiered evaluation system. All proposals will be evaluated based on the Submission Requirements and Cost, with the top candidates advancing as a finalist and receiving a full evaluation as outlined above.

D. Award and Execution of Contract

Subject to the State Bar's right to reject any or all proposals, the HSB will be awarded the contract. Notice will be posted at the State Bar's offices at 180 Howard Street, San Francisco, CA and written notice sent to bidders on or about September 22, 2006 of the Bar's intention to award the contract to the HSB. It is anticipated that final selection of the HSB will be made by September 29, 2006. The evaluation team will select a winning proposal subject to approvals granted by the Board of Governors. Upon selection, the State Bar and the selected Vendor will enter into good faith negotiations on a contract containing, without limitation, the Statement of Work and Contracting Requirements sections below.

No contract or agreement, express or implied, shall exist or be binding on the State Bar before the execution of a written contract by both parties. If agreement on the terms of such a contract cannot be reached after a period deemed reasonable by the State Bar in its sole discretion, the State Bar may enter into negotiations and sign a contract with any other bidder who submitted timely, responsive and responsible proposals to this RFP.

If, after the State Bar and the HSB agree to terms and execute a contract, that contract is terminated for any reason, the State Bar may, in its sole discretion, either enter into negotiations with the next highest scored bidder, or issue a new RFP and begin the proposal process anew.

Questions regarding the State Bar's award of any business on the basis of proposals submitted in response to the RFP, or on any other matter in connection with the selection process, should be addressed in writing to Edward Bernard at Edward.Bernard@calbar.ca.gov.

Where written notice is required in this RFP, the notice must be sent by U.S. mail **and** either facsimile or e-mail.

E. Errors in the RFP

If a bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in

the RFP, the bidder should immediately provide the State Bar with written notice of the problem and request that the RFP be clarified or modified. Without disclosing the source of the request, the State Bar may modify the document prior to the date fixed for submission of proposals by issuing an addendum to all potential bidders to whom the RFP was sent.

If prior to the date fixed for submissions, a bidder knows of or should have known of an error in the RFP but fails to notify the State Bar of the error, the bidder shall bid at its own risk, and if, awarded the contract, shall not be entitled to additional compensation or time by reason of the error or its later correction.

F. Questions Regarding the RFP

Questions regarding the RFP may be addressed in writing to Edward Bernard at Edward.Bernard@calbar.ca.gov. All questions must be submitted no later than 5 days prior to the date for submission of proposals. Questions and answers regarding the RFP may be shared with all bidders known to be interested in submitting a proposal.

If a question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the bidder may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the bidder must submit a statement explaining why the question is sensitive. If the State Bar concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the State Bar does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the bidder will be notified.

A bidder who believes that one or more of the RFP's requirements is onerous or unfair, or unnecessarily precludes less costly or alternative solutions, may submit a written request that the RFP be changed. The request must set forth the recommended change and reason for proposing the change. The State Bar must receive any such request no later than 5 days before the deadline for submitting proposals.

G. Addenda

The State Bar may modify the RFP prior to the date fixed for submission by posting, mailing, emailing or faxing an addendum to the bidders known to be interested in submitting a proposal. If any bidder determines that an addendum unnecessarily restricts its ability to bid, it must notify the State Bar in writing no later than 5 days before the deadline for submitting proposals.

H. Withdrawal and Resubmission/Modification of Proposals

A proposal may be withdrawn at any time prior to the deadline for submitting proposals by notifying the State Bar in writing of its withdrawal. The notice must be signed by the bidder. The bidder may thereafter submit a new or modified proposal, provided that it is received at the State Bar no later than the deadline.

Modification offered in any other manner, oral or written, will not be considered. Proposals cannot be changed after the evaluation process begins.

I. Protest Procedure

A bidder may protest the award if it meets all the following conditions:

1. The bidder has submitted a proposal that it believes is or should have been the HSB, under the criteria set forth above;
2. The bidder believes that its proposal meets the State Bar's administrative and technical requirements, proposes services of proven quality and performance, and offers a competitive cost to the State Bar; and
3. The bidder believes that the State Bar has incorrectly selected another bidder.

A bidder qualified to protest should contact Andrew Conover, Procurement Supervisor, (415) 538-2207, to attempt an informal resolution. If this contact is unable to resolve the protest to the bidder's satisfaction, the bidder must file a written protest within 5 days of the notice of intention to award the contract. The written protest must state the facts surrounding the issue and the reasons the bidder believes the award to be invalid. The protest must be sent by certified or registered mail or delivered personally to:

The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Attention: Peggy Van Horn, Chief Financial Officer

Protests will be reviewed and decided by the State Bar's Award Protest Team within 30 days after the State Bar issues written acknowledgment of the protest. In the event that a protest is filed, the contract award will be postponed pending resolution of the protest.

J. News Releases

News releases pertaining to the award of a contract may not be made without the prior written approval of the State Bar.

K. Disposition of Materials

All materials submitted in response to an RFP will become the property of the State Bar of California and will be returned only at the State Bar's option and at the expense of the bidder. One copy of each proposal will be retained for official files and become a public record. Specific limited pages of a proposal, not including proposed cost and compensation, may be marked as proprietary and confidential. The bidder's consent will be requested before release of such pages to non-State Bar personnel. By submitting a proposal, a bidder agrees to these terms and waives any right to pursue a cause of action for damages incurred as a result of the release of any information contained in a proposal.

III. STATEMENT OF WORK

The Managing Editor is responsible for soliciting manuscripts for publication, editing manuscripts, coordinating with Editors on the Editorial Board, and evaluating all incoming manuscripts for publication.

The Managing Editor is specifically responsible for:

1. soliciting professional manuscripts and maintaining contact with all professional writers as to all details regarding their manuscripts;
2. assisting the Editorial Board with both generation of article ideas and identification of potential authors;
3. conducting pre-emption checks of all professional pieces submitted for possible publication
4. making professional publication decisions with the advice and consent of the Editor-in-Chief;
5. obtaining and filing agreements on all published articles;
6. ensuring that professional writers are given a proposed deadline schedule at the time they commit to writing for the Law Review and that the professional writers are informed that their failure to comply with the schedule may result in the rejection of their article;
7. supervising and assigning work to Editors on the Editorial Board, including editing of accepted articles and reading of submissions;
8. editing all articles substantively and stylistically (including cite checking and shepardizing) and ensuring that all cites are in publishable form and compiling the initial edits of the Editors, before the manuscript is passed to the Editor-in-Chief;
9. assisting the Editor-in-Chief with the final edits before the manuscript is sent to the author for consideration and approval of changes;
10. coordinating with the State Bar-approved printer on design, organization, proofing, printing and distribution of the Law Review; and
11. assisting the Editor-in-Chief with quarterly Publications Subcommittee Reports to the Section Executive Committee, and attending all Section Executive Committee and Publication Subcommittee meetings unless prior notice of absence is given to the Editor-in-Chief;

12. maintain editorial calendar.

Candidate must have demonstrated skill in writing and editing. Must be able to meet pre-set deadlines. Must have ability to respond to e-mail in a timely manner. Experience or expertise in employment law and/or labor relations is preferred.

A sample publication is included as Attachment B.

IV. CONTRACTING REQUIREMENTS

Upon selection of a vendor, the terms set forth in Attachment A of this RFP are to be embodied in a definitive agreement that may contain additional covenants and other provisions as may be mutually acceptable. Submission of a proposal shall constitute agreement to contract on these terms, except for any term specifically reserved in the proposal for future negotiation.

Attachment A
INDEPENDENT CONTRACTOR AGREEMENT

THE STATE BAR OF CALIFORNIA
(the "State Bar")
180 Howard Street
San Francisco, CA 94105

("Contractor")

Contact Person: Pam Wilson

Contact Person:

State Bar wishes to hire Contractor to solicit manuscripts for publication in the Labor and Employment Law Newsletter, to edit manuscripts, coordinate with Editors on the Editorial Board, and evaluate all incoming manuscripts for publication. The State Bar and Contractor hereby agree as follows:

- 1. SERVICES.** Contractor will perform the Services, as described in Attachment A, to the reasonable satisfaction of the Director of Meeting & Education Services, Pam Wilson, or her designee, (hereinafter "Authorized Representative").
- 2. TERM.** This Agreement is effective as of the last date last written below, and will continue in full force and effect until July 31, 2006, unless earlier terminated in accordance with the provisions of Section 9.
- 3. COMPENSATION.** Subject to the reasonable satisfaction of the State Bar with the Services, the State Bar will pay Contractor _____per hour, for a total amount not to exceed _____. The budget consists of the following:
- 4. PAYMENT.** Contractor will be paid within thirty (30) calendar days of receipt of Contractor's invoice. Each such invoice will include the State Bar purchase order number and an itemized statement showing in detail all work completed during the periods for which Contractor is to be paid, including such data supporting Contractor's right to payment for costs or expenses, as the State Bar may require.
- 5. WARRANTIES.** Contractor warrants and represents that he possesses such expertise, experience and resources necessary to perform the Services in a diligent, timely and professional manner consistent with the highest professional standards applicable to these Services.
- 6. INDEPENDENT CONTRACTOR.** It is the express intention of both parties that Contractor be an independent contractor and not an employee, agent, joint venturer, or partner of the State Bar. Nothing in this Agreement will be interpreted or construed as creating or establishing the relationship of employer and employee between the State Bar and Contractor or any employee, subcontractor, or agent of Contractor.

7. TAXES. The State Bar will not withhold any taxes or any other statutorily required amounts from any sums due Contractor. Contractor has the sole responsibility for the payment of all taxes lawfully due in connection with compensation received pursuant to this Agreement.

8. TERMINATION. Either party may terminate the Agreement upon fourteen (14) days written notice. The Agreement will automatically terminate on the occurrence of any of the following events: (a) bankruptcy or insolvency of either party; (b) death of Contractor, (c) failure to comply with federal, state or local laws, regulations or requirements, or (e) expiration of the Agreement.

9. INDEMNITY. Unless otherwise provided, Contractor will protect, indemnify, defend, and hold harmless the State Bar, its Board of Governors, officers and employees, agents and representatives from and against any and all liability, losses or damages or any expenses or costs whatsoever to the State Bar as a result of any claims, demands, damages, costs or judgments against the State Bar that may arise in connection with Contractor's performance or failure to perform, or alleged performance or alleged failure to perform, under the terms of this Agreement, or any actual or alleged negligent acts or omissions arising out of or in connection with Contractor's performance of this Agreement. Contractor will further protect, indemnify and hold harmless the State Bar from and against any and all liabilities, losses, damages, expenses or costs whatsoever (including reasonable attorneys' fees, costs and expenses) arising from or in connection with the State Bar's enforcement of its rights under this section 10.

10. INSURANCE. Contractor will provide and keep in full force and effect during the term of this Agreement, at his own cost or expense, (i) Commercial General Liability insurance, with a general aggregate limit (other than products/completed operations) of no less than One Million Dollars (\$1,000,000.00) and including products/completed operations coverage with a limit of no less than One Million Dollars (\$1,000,000.00), personal and advertising injury coverage with a limit of no less than One Million Dollars (\$1,000,000.00), and an each occurrence limit of no less than One Million Dollars (\$1,000,000.00); (ii) Workers' Compensation coverage as required by law, and (iii) Comprehensive Automobile Liability insurance covering owned, leased, hired, and now-owned vehicles with a combined single limit of at least Five Hundred Thousand Dollars (\$500,000.00).

11. NO ASSIGNMENT. Contractor will not assign or subcontract all or any part of Contractor's rights or obligations under this Agreement without the State Bar's prior written consent.

12. COPYRIGHT. All work product related to the Services ("work product") and all rights thereto in the nature of copyright, trademark, patent and rights to ideas, except for Contractor's pre-existing intellectual property rights and derivatives thereof, are hereby assigned to the State Bar, and will become the property of the State Bar whether or not the work is completed. Any pre-existing work product incorporated into the work product will be identified as such, and Contractor gives the State Bar the non-exclusive, worldwide, perpetual, and royalty-free rights to print, reprint, publish, reproduce, use, modify, create derivative works from, distribute the preexisting work product in its entirety or in any portion, individually or as a collective work, in print, electronic, or digital form. In the event of termination of the Agreement, or abandonment or suspension of work performed hereunder, all work product and all such rights thereto existing as of the date of such termination, suspension or abandonment will be assigned to, and will become the property of the State Bar as of such date.

Contractor will agree to deliver to the State Bar within five (5) days of a written request, all or any portion of the work product set forth in the State Bar's request.

13. CONFIDENTIALITY. Contractor will retain all confidential information provided by the State Bar in the strictest confidence and will neither use it nor disclose it without the prior written consent of the State Bar. Notwithstanding any other provisions of this Agreement, the State Bar retains the right to enjoin any unauthorized disclosure in an appropriate court of law. Contractor will not issue any public announcements concerning the State Bar without the prior written consent of the State Bar.

15. CONFLICT OF INTEREST. Contractor understands and acknowledges that the State Bar is a public corporation and, consequently, certain State Bar employees and volunteers are subject to government-mandated conflict-of-interest provisions. These provisions concern, among other things, accepting gifts or gratuities from potential contracting entities and contracting with entities owned or controlled by the State Bar, certain persons associated with the State Bar, or its employees. With this understanding, Contractor will not take any action which creates a situation which would or which could appear to result in violation of the conflict of interest code provisions by any State Bar employee or volunteer.

16. NOTICE. Unless otherwise provided in the Agreement, any notices to be given by either party to the other will be made in writing, by either personal delivery or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices will be addressed to the parties at the addresses appearing in the cover page of the Agreement.

17. MISCELLANEOUS. This Agreement supersedes any and all other agreements, either oral or written, which may exist between the parties, and contains all of the covenants and agreements between the parties as of the effective date of the Agreement. No amendment, alteration or variation of the terms to this Agreement will be valid unless made in writing and signed by both parties hereto. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way. Sections 10, 13 and 14 will continue in full force and effect after termination of the Agreement.

THE STATE BAR OF CALIFORNIA

CONTRACTOR

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Tax I.D. No.: _____